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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,877	10/26/2001	Gregory Owen Miller	9DDW19324CIP	1751
23465	7590	08/24/2004	EXAMINER	
JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE SUITE 2600 ST LOUIS, MO 63102-2740			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	
DATE MAILED: 08/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,877

Applicant(s)

MILLER ET AL.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on August 2, 2004.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 6-19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 2,948,560 to Rop.

Regarding claim 6, Rop discloses a latch assembly comprising a door including a door retainer projection (16) and a hooded portion (Figures 1-3).

A keeper (11) is mounted in the device.

A latch handle (20) is pivotally mounted to the door beneath the hooded portion. The handle is configured to rotate about a first longitudinal axis (21).

A latch actuator (14) is pivotally mounted to the door. The latch actuator is configured to rotate about a second longitudinal axis (15).

The latch handle and the latch actuator are rotationally coupled. The latch handle pivots in one direction and the latch actuator pivots in another direction.

The handle is selectively positional between an open and a closed position to couple the door to the device.

The latch actuator disengages the keeper from the door retainer projection as the latch handle rotates.

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However, Rop (Figures 1-3) fails to disclose that the hooded portion is rounded; that the keeper is resilient; and that the latch assembly is used in a dishwasher.

As to the hooded portion been rounded, Rop discloses another embodiment (Figure 10) that illustrates a hooded portion to be rounded (at 40). It would have been obvious to one having ordinary skill in the art to change the shape of the hooded portion, from square to round, because the shape of the hooded portion will not affect the mechanism movement.

As to the keeper been resilient, Rop discloses another embodiment (Figure 10) having a resilient keeper (51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a resilient keeper in order to bias the keeper to the door retaining projection.

As to the fact that the latch assembly is a dishwasher latch door assembly, Rop discloses that the latch mechanism is for refrigerators and for other applications in which a tight closure is required (Col. 1 Lines 15-20). It is well known in the art that dishwashers need a tight closure of the door with respect to the device.

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a latch assembly, as described by Rop, into a dishwasher, in order to obtain a tight closure of the door.

As to claims 7 and 11, Rop discloses that the device includes a tub assembly (wherein the keeper is mounted).

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As to claim 8, Rop discloses that the keeper comprises a keeper engagement surface (13). The keeper-engaging surface will disengage from the door retaining projection (16) when the latch handle is rotated.

As to claims 9 and 13, Rop discloses that the latch assembly further includes a bracket mounted to the door (where pins 15 and 21 are supported, Figures 1). The latch actuator and the latch handle are hingedly attached to the bracket. Also, Rop teaches another embodiment (Figure 10) that includes a bracket.

As to claims 10 and 12, Rop illustrates that the latch handle comprises a rounded engagement portion in contact with the latch actuator (Figure 1).

As to claims 14 and 18, Rop illustrates that the latch actuator (14) comprises a substantially flat plate (Figure 1).

As to claims 15 and 17, Rop illustrates that the latch handle further comprises a closed handle stop (the end of the handle near the pivot 21).

As to claim 16, Rop discloses an escutcheon (the door).

Response to Amendment

4. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

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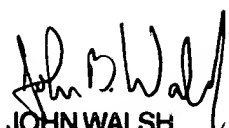
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.



Carlos Lugo
AU 3676

August 19, 2004



JOHN WALSH
PRIMARY EXAMINER